

THE REVISED SCHOOL CODE (EXCERPT)
Act 451 of 1976

380.1230g Individual employed or working under contract; criminal history check or records check; use of results received by another district; consent; request; use of results for limited purpose; "misdemeanor conviction involving sexual or physical abuse" defined; duties of department of state police; verification; disclosure of conviction for listed offense or other felony; exception; definitions.

Sec. 1230g. (1) Not later than July 1, 2008, the board of a school district or intermediate school district, the board of directors of a public school academy, or the governing body of a nonpublic school shall do both of the following for each individual who, as of December 1, 2005, is either a full-time or part-time employee of the school district, intermediate school district, public school academy, or nonpublic school or is assigned to regularly and continuously work under contract in any of its schools and who either is still a full-time or part-time employee of the school district, intermediate school district, public school academy, or nonpublic school on the date that the criminal history and criminal records checks under this section are initiated or is still assigned to regularly and continuously work under contract in any of its schools on the date that the criminal history and criminal records checks under this section are initiated:

(a) Request from the criminal records division of the department of state police a criminal history check on the individual.

(b) Request the department of state police to conduct a criminal records check on the individual through the federal bureau of investigation. The board, board of directors, or governing board shall require the individual to submit his or her fingerprints to the department of state police for the purposes of this subdivision. The department of state police may charge a fee for conducting the criminal records check.

(2) For an individual employed or regularly and continuously working under contract as a substitute teacher or substitute bus driver, if the individual agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal history check or criminal records check with another district, public school academy, or nonpublic school, then instead of requesting a criminal history check and criminal records check under subsection (1), a school district, intermediate school district, public school academy, or nonpublic school may use results received by another district, public school academy, or nonpublic school to confirm that the individual does not have any criminal history. Alternatively, a school district, intermediate school district, public school academy, or nonpublic school may use results maintained by the department to confirm that the individual does not have any criminal history. If confirmation is not available from any of these sources, subsection (1) applies to the individual.

(3) If an individual described in subsection (1) is employed by or regularly and continuously working under contract in more than 1 school district, intermediate school district, public school academy, or nonpublic school and if the individual agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal history check or criminal records check with another district, public school academy, or nonpublic school, then a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the results of the criminal history check or criminal records check from another district, public school academy, or nonpublic school.

(4) An individual described in subsection (1) shall give written consent for the criminal records division of the department of state police to conduct the criminal history check and criminal records check required under this section and shall submit his or her fingerprints to the department of state police for the purposes of the criminal records check. If an individual does not comply with this subsection or otherwise fails to cooperate with a school district, intermediate school district, public school academy, or nonpublic school that is seeking to comply with subsection (1) concerning the individual, then the school district, intermediate school district, public school academy, or nonpublic school shall not employ the individual in any capacity and shall not allow the individual to regularly and continuously work under contract in any of its schools.

(5) A school district, intermediate school district, public school academy, or nonpublic school shall make a request to the department of state police for the criminal history check and criminal records check under this section on a form and in a manner prescribed by the department of state police.

(6) The results of a criminal history check and criminal records check under this section shall be used by a school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an individual's qualifications for employment or assignment in his or her position and for the purposes of subsections (2) and (3). A member of the board of a school district or intermediate school district, of the board of directors of a public school academy, or of the governing body of a nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose those results received under this section, except a misdemeanor conviction involving sexual or physical abuse or any felony

conviction, to any person who is not directly involved in evaluating the individual's qualifications for employment or assignment. However, for the purposes of subsections (2) and (3), a person described in this subsection may provide a copy of the results received under this section concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. For an individual who is regularly and continuously working under contract, if the individual agrees in writing, a district, public school academy, or nonpublic school may provide a copy of the results received under this section concerning the individual to an appropriate representative of the individual's employer. A representative of the individual's employer who receives a copy of the results, or receives the results from another source as authorized by this subsection, shall not disclose the results to any person outside of the employer's business or to any of the employer's personnel who are not directly involved in evaluating the individual's qualifications for employment or assignment. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00, but is not subject to the penalties under section 1804. As used in this subsection, "misdemeanor conviction involving sexual or physical abuse" includes, but is not limited to, a misdemeanor conviction for a listed offense; a misdemeanor conviction for violation of section 617a of the Michigan vehicle code, 1949 PA 300, MCL 257.617a; a misdemeanor conviction for violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701; a misdemeanor conviction for violation of section 81, 81a, 81c, 90c, 136b, 141a, 145, 145d, 145n, 233, 335a, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.81c, 750.90c, 750.136b, 750.141a, 750.145, 750.145d, 750.145n, 750.233, 750.335a, and 750.411h; a misdemeanor conviction of section 6 of 1979 PA 53, MCL 752.796; or a misdemeanor conviction for violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(7) Within 30 days after receiving a proper request by a school district, intermediate school district, public school academy, or nonpublic school for a criminal history check and criminal records check on an individual under this section, the criminal records division of the department of state police shall do both of the following:

(a) Conduct the criminal history check and, after conducting the criminal history check and within that time period, provide a report of the results of the criminal history check to the district, public school academy, or nonpublic school. The report shall contain any criminal history record information on the individual that is maintained by the criminal records division of the department of state police. A school district, intermediate school district, public school academy, or nonpublic school that receives a report from the department of state police under this subdivision shall retain that report in the individual's employment records.

(b) Initiate the criminal records check through the federal bureau of investigation. After conducting the criminal records check required under this section for a school district, intermediate school district, public school academy, or nonpublic school, the criminal records division of the department of state police shall provide the results of the criminal records check to the district, public school academy, or nonpublic school. A school district, intermediate school district, public school academy, or nonpublic school that receives results from the department of state police under this subdivision shall retain those results in the individual's employment records.

(8) If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (7), or a report received under section 1230a, 1230d(7), 1535a(15), or 1539b(15), disclose that an individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (7), or a report received under section 1230a, 1230d(7), 1535a(15), or 1539b(15), disclose that an individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the governing board or governing body, if any, of the school district, intermediate school district, public school academy, or nonpublic school each specifically approves the employment or work assignment in writing. If a school district, intermediate school district, public school academy, or nonpublic school receives results described in this subsection, within 60 days after receiving those results the school district, intermediate school district, public school academy, or nonpublic school shall submit to the department in the form and manner prescribed by the department a report detailing the information received and any action taken as a result by the school district, intermediate school district, public school academy, or

nonpublic school. The department shall maintain a copy of this report for at least 6 years.

(9) If the criminal history check and criminal records check required under this section have been completed for a particular individual and the results reported to a school district, intermediate school district, public school academy, or nonpublic school as provided under this section, then another criminal history check or criminal records check is not required under this section for that individual as long as the individual remains employed with no separation from service by any school district, intermediate school district, public school academy, or nonpublic school in this state or remains regularly and continuously working under contract with no separation from service for the same employer in any school district, intermediate school district, public school academy, or nonpublic school in this state. For the purposes of this subsection, an employee is not considered to have a separation from service in any of the following circumstances:

(a) The employee is laid off or placed on a leave of absence by his or her employer and returns to active employment with the same employer within 1 year after being laid off or placed on the leave of absence.

(b) The employee transfers to another school district, intermediate school district, public school academy, or nonpublic school and remains continuously employed by any school district, intermediate school district, public school academy, or nonpublic school in this state.

(10) Subsection (1) does not apply to an individual who is an employee or is assigned to regularly and continuously work under contract in a school of a school district, intermediate school district, public school academy, or nonpublic school if the individual is not more than 19 years of age and is enrolled as a general education pupil of a school district, intermediate school district, public school academy, or nonpublic school or is not more than 26 years of age and is enrolled in special education programs or services in a school district, intermediate school district, public school academy, or nonpublic school. However, the school district, intermediate school district, public school academy, or nonpublic school shall perform a criminal history check on that person using the department of state police's internet criminal history access tool (ICHAT). If a search of the department of state police's ICHAT reveals that the individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If a search of the department of state police's ICHAT reveals that the individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school each specifically approves the employment or work assignment in writing.

(11) For the purposes of subsections (8) and (10), the department shall make available to school districts, intermediate school districts, public school academies, and nonpublic schools information on how to verify a conviction using public records.

(12) As used in this section:

(a) "At school" means in a classroom, elsewhere on school property, or on a school bus or other school-related vehicle.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(c) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(d) "Regularly and continuously work under contract" means any of the following:

(i) To work at school on a more than intermittent or sporadic basis as an owner or employee of an entity that has a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(ii) To work at school on a more than intermittent or sporadic basis as an individual under a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(e) "School property" means that term as defined in section 33 of the sex offenders registration act, 1994 PA 295, MCL 28.733.

History: Add. 2005, Act 130, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan.

10, 2007;—Am. 2008, Act 583, Imd. Eff. Jan. 16, 2009.

Popular name: Act 451